Previous references.

File No. 27 of 04-05.

190 5

(Courts.)

Later references.

Same file Ds 3+4 8 June 1905
Cs 98 of 05 06
Ds 1-10 Pet. 53

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 and 2

PART B FOR May 1905.

SUBJECT.

Appeal to Chief Court against the Judgment in Hassan Sessions Case No. 7 of 04-05, (Hanumanhalli murder case)

FILE No. 274 of 1904-05.

Appeal against the order passed by the Sessions Judge, Mysore Division, in Hassan Sessions Case No. 7 of 1904-05 (Hanumanhalli murder case).

1 From the Inspector General of Police in Mysore, No. 6053—653, dated the 27th April 1905.
Forwards the records connected with the case and requests that the Government Advocate may be directed to prefer an appeal.

2 To the Inspector General of Police and the Government Advocate in Mysore, No. 3385-6, dated the 25th May 1905.
Directs the Government Advocate to prefer an appeal to the Chief Court against the above order, and states that the appeal may be presented on the re-opening day of the Chief Court in June 1905, and requests the Inspector General of Police to depute the Assistant Superintendent of Police who prepared the memo or other person to instruct the Government Advocate.

G. R. S. 58

G. R. S. 11] 1904.

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 274

FILE HEADING.

Appeal against the order passed by the Sessions Judge Mysore Division, in Hunsur Sessions Case No. 7 for 05. (Hanumanthally murder case)

From The Inspector General of Police in Mysore

No. 653/653 Dated 27/4/05 Received 29/4/05

Diary No. 3 only	Enclos. 31	Spare Copies. —	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards the records connected with the case & requests that the Govt. Advocate may be directed to prefer an appeal to the Chief Court

NOTES AND ORDERS.

GRS 29/5/05

1) This is a case where an influential man named Rangegowda of Bhartoor village, Hunsur Taluk, was shot dead on the 25th ult. while he was on his way to Mysore to be present for the hearing of a certain case

NOTES—First sheet

MGCPB-25,000-18-8-04

Serial No.

between him & one of the accused
the accused Kunjeyunda & others who
were suspected of having committed the
act were committed to the said Sessions
to undergo trial. They were acquitted by
the Sessions Judge on the 13th Oct 1904. The time
for preferring an appeal has expired
But the Govt Pleader wants to claim
exemption under Sec 12 ~~(2)~~ clause 2 of
the Limitation Act, as a considerable
time was occupied in the copying of
the voluminous records connected with
the case. The section allows time only
for obtaining copy of the decree, sentence
or order appealed against & not for
obtaining copies of the entire records.
The Govt Pleader also states
that the Govt Advocate who has been
consulted in the matter is of opinion
that no grounds exist for preferring an
appeal

Submitted 2) Let us ascertain from
22/4/05 Stf 29/4/05 the Govt Pleader what
time was taken in obtaining
a copy of the Judgment. Do. Stf
Cases put up for Govt Pleader's
orders

3) Let us ascertain from the Govt Pleader what time was taken in obtaining a copy of the Judgment. Do. Stf Cases put up for Govt Pleader's orders

29.4.1905

MGCPB—20,000—1-11-04.

File No 4 for 05

J 3092
C

Bangalore
29th April 1905.

My dear Mr. Carr,

4) Your letter No. 605-3/653 dated the 27th April 1905, requesting Government to file an appeal to the Chief Court from the Mysore Session Judge's Order acquitting the prisoners in Hassan Sessions Case No 7 of 1904–05.

I am directed to observe that the time excluded when computing the period of limitation is that required for obtaining a copy of the order appealed against, and not that required for obtaining copies of depositions etc.

Kindly therefore ascertain at a very early date and let me know, for the information of Government, when a copy of the judgment of the Sessions Court was applied for and when obtained. The authenticated copy of the Judgment (which is not in the file sent with your letter) may also kindly be procured at once for inspection

Yours Sincerely
(Sd) B. K. Venkata Varada Iyengar
Secretary.

No 6340/675 Ecn 3 2324 Bangalore.

9th. May 1905.

My dear Mr. Venkatavaradaiengar,

S) With reference to your D.O dated 29th April 1905 requesting certain information regarding the Hanumanhalli murder case in the Hassan District I beg to forward herewith copies of D.O dated 4th May 1905 from the Deputy Commissioner and its enclosure which furnish the needful particulars.

A certified copy of the judgment is also enclosed.

Yours sincerely,

J C C

Hassan.

4th May 1905.

My dear Carr

6) Your D.O.letter of the 2nd instant was received this morning and I write hurriedly in reply to catch the return post as the matter appears very urgent.

I enclose in original the A.S.P's D.O. letter of this date on the subject together with the copy of the Sessions Court judgment originally received from the Sessions Judge and now obtained from the Committing Magistrate's Court (Treasury Assistant Commissioner and 1st class Magistrate), which kindly return when done with as it has to be sent back to that Court for record.

From the A.S.P's D.O. letter it may be seen that no authenticated copy of the judgment was applied for or obtained by the Police.

In haste.

Yours sincerely.

/ Sd./ P. R. W. Wetherall.

" C O P Y "

J Clum

Inspector General of Police.

Hassan.

6

4th May 1905.

Kind Sir,

7) Adverting to the D.O. of the 2nd instant from the Inspector General of Police to your address forwarded to me in original with a copy of the Government Secretary's D.O. dated 29th ultimo regarding the Hanumanhalli murder case, I beg to state that the authenticated copy of the judgment received by the District -- Magistrate from the Sessions Judge, was forwarded in original to the committing Magistrate (the Treasury Assistant Commissioner and 1st class Magistrate)- as desired by the Sessions Judge and District Magistrate. The practice of sending a copy taken from the authenticated copy after attesting the former with the signature of the Assistant Superintendent of Police, was obtaining till now whenever records were submitted along with the appeal Memoranda to Government. The instructions now given in the matter will be attended to in future.

The authenticated copy, on the file of the Treasury Assistant Commissioner and 1st class Magistrate, is now obtained and herewith submitted.

As regards the question of limitation, I may be permitted to state that under the provisions of para IV of the Chief Courts

Rule

Rule of Practice No: 61 dated 16-3-95, I made a requisition to the Sessions Judge on the 13th October 1904 the day on which, Judgment was pronounced, requesting him to permit an official of the District Police Office to take copies of entire records, including the judgment in the case.

This request could not be complied with in Hassan, as the Judge and his establishment left it the same night, owing to the intervention of the Dasara holidays during which the Court was closed.

The official left this for Mysore on 6-11-04. The copying of the lengthy judgment and the bulky records of the case occupied the official till the 3rd December last making allowance for Court holidays during that period. I may also state that the authenticated copy of the judgment was received by the District Magistrate on 7th November 1904 and by me on the 12th idem.

In conclusion, I beg to add that in an important and sensational murder case as the one under reference, it is not possible to prepare an appeal Memorandum merely on the judgment and that copies of depositions are absolutely necessary to quote extracts from them, for meeting the arguments, put forth in the judgment and to show that infrences drawn are not warranted by the recorded evidence.

The D.O. from the Inspector General to your address forwarded to me for report together with its enclosures, is herewith retransmitted.

I beg to remain &c.,

/ Sd./ M. Gulam Mohadeen Khan.

" C O P Y "

J C [illegible]

Inspector General of Police.

G.R.S. 12]
General and Revenue Secretariat.

File No. 274 of 1904

Serial No.

8) Sent with the above reply Dis. & copy of Judgment. No Judgment was delivered on 18/10/04, a copy thereof could be obtained by the Dist magistrate on the 4th inst & by the Advocate for Police who had applied for the same on the 12th idem.

8/5/05 SN 9/5/05

9) Without adding to the bulk of the matter on record by a detailed exposition of reasons, I may merely say that a perusal of the Sessions Judge's judgment does not produce an impression or conviction on the mind. It indulges in speculations as to what should have occurred, & dismisses material evidence on the score of immaterial discrepancies. I think an appeal may well be preferred, having regard also to the exceptional importance of the case

10) There is, unfortunately, a difficulty in regard to limitation, as explained in a preceding para of the note. But this may perhaps be got over by excluding from the period of limitation the interval between the date of judgment (13th Oct. 1904) and the date on which a copy of the judgt was obtained

NOTE—Contn. sheet.

MGCPB—20,000—1-11-04.

G.R.S. 12]
General and Revenue Secretariat.

File No. 754 of 1904

Serial No.

by the Magistrate of the District who is responsible for advising parties as to filing an appeal (i.e. after the Govt. (Govt.) : this interval is 25 days. The latest date for filing the appeal will therefore be the 8th May 1905 ; but as the Chief Court was closed on that day, the appeal may be presented on the re-opening day in June next, under Sec: 5 of the Limitation Act.

11) As the Govt Advocate has expressed an opinion adverse to the merits of the proposed appeal, it is desirable that he should be furnished with the facts and arguments. The Dep^y General may be asked to depute the Govt Advocate or some other person to do so—

A draft is submitted for approval

To Govt / 6/5/05

2561
11-5-1905
Orig.

12) The bar of limitation could be got over by satisfying the Chief Court that there was sufficient cause for not presenting the appeal within the period fixed (vide section 5 of the Limitation Act

MGCPB—20,000—1-11-04

C.R.S. 12]
General and Revenue Secretariat.

N File No. 274 of 1904-05

Serial No.

It seems to me that such a case could easily be shown to have existed in the present case (Vide the Apptt Dubash Do of the 4th Instant) - I agree with the District Magistrate and the Dy I.G. of Police that this is a fit case for an appeal - There appears to be sufficient evidence against the accused both direct & circumstantial The Sessions Court is hypercritical in his criticism & wholesale condemnation of that evidence - The case is one of sufficient weight & importance to warrant the Govt Advocate being directed to prefer an appeal - Draft added - bl 12/5/05.

6052
12.5.05

2 To the Inspector General of police
The Govt Advocate in Mysore
No 3385-6 dated 25.5.05
directs the Government Advocate to prefer an appeal to the Chief Court against the order of acquittal by the Sessions Judge, stating that the appeal

B Recd 27/5/05.

NOTE—Contn. sheet.

MGCPB—20,000—1-11-04.

Serial No.

may be presented on the ~~2nd~~ reopening day of the court in June next and requests the D. of Police to depute the Asst Supt of Police who prepared the memo or some other person to instruct the Govt Advocate

NOTE.—Contd. sheet.

MGCPB—50,000—17-2-05

III Court
misl
29-4-05

J 2248

190

From

The Inspector General of

Police in Mysore.

To

The Secy. to the Govt. of Mysore,

Gen. and Rev. Dept.

Dated

Despatched 28th April 1905

Received

General No. 6053

No. 653

Enclosure No. one + 3 files

Submitting records in connection with Hanumanhally murder case + requesting that the Govt: Advocate may be directed to prefer an appeal to the Chief Court.

MGCPE—300—9.1 05

J2248

File No 274 Jud-05
Fl: No: 1

OFFICE OF THE INSPECTOR GENERAL
OF POLICE IN MYSORE,

No. 6053/653 Enc one + 3 files

Dated Bangalore, 27th April 1905
28

Enc.

From F.E.C. Carr Esquire,
INSPECTOR GENERAL OF POLICE IN MYSORE.

To B.K. Venkatavaradaiengar Esquire,
SECRETARY TO THE GOVERNMENT OF MYSORE,
GENERAL AND REVENUE DEPARTMENT.

SIR,

I have the honour to forward herewith a Memo of grounds of appeal in Hassan Sessions case No 7 of 1904-05, known as the Hanumanhally murder case, together with copies of judgment, depositions, etc. as per pherist enclosed.

This is a case of very great importance in which an influential man named Kallare Range Gowda of Bhartoor village in the Alur Sub Taluk of the Hassan District, was shot dead on the 29th July 1904, when he was going to Mysore to be present there at the hearing of a suit between him and the 6th accused, namely Guruve Gowda.

The Deputy Amildar of Alur sub-Taluk investigated the case, under the direct supervision of the Assistant Superintendent. There was clear evidence forthcoming, to show that eight persons, including Guruve Gowda referred to above, were concerned in the offence. As it was not possible to secure direct evidence to the deed - one of these eight persons, namely Putta, was made an approver, as he volunteered to make a clean breast of the whole matter.

The seven accused were accordingly placed for trial - before the Treasury Assistant Commissioner and 1st class - Magistrate, who committed the case to the Sessions for --- trial, where all the accused persons were acquitted on 13th October 1904.

The Deputy Commissioner having been convinced that -- there was failure of justice in this case, requested me in his letter No 533 dated 3/7th March 1905, to move the Government to sanction an appeal being preferred to the Chief -- Court. This application was received by me on the 8th idem and in my letter No 5810/mis 759 dated 10/13th April 1905, to the Government Advocate, (copy enclosed), I requested him to give his opinion as to whether the case was a fit one for being appealed against. In reply the Government Advocate, in his letter No 139 dated 17th idem, states (1) that the - case is time-barred as the appeal time has expired on the 12th instant, (one day late), (2) that there are not many -- strong points to attack the judgment of the lower Court, - and therefore that it is not a fit case for appeal.

As regards the 1st point, viz, that the case is time-barred, I beg to state that the Superintendent had to depute a special Officer to Mysore to make copies of the voluminous records of the case. There was thus an unavoidable - delay of 2 months in obtaining copies of the records, and if this period be deducted under section 12, clause 2, of the - Limitation Act, I see no reason why the Government Advocate should be of the opinion that the case is time-barred. In fact there is still time for appeal till the 10th June 1905.

As regards the Government Advocate's opinion that this is not a fit case for appeal, I beg to state that the memo of appeal and my letter to the Government Advocate set forth in my opinion, quite sufficient and strong reasons for an appeal.

The Government Advocate has apparently not taken the trouble to appreciate the facts set forth in the appeal --

appeal memo forwarded to him for information.

Quite apart from all other grounds, this particular case must be viewed in quite an exceptional way by Government.

Crime of this nature in the malnad is specially rife, so much so that the news-papers and the public have commented on it, calling the Police to task in no measured terms.

Regarding this noticeable increase of murder cases - in the malnad tracts of the Hassan District, Government observe as follows in their Review of last year's Police Administration Report:-

" The increase in the number of cases of murder and Culpable Homicide in the malnad parts of the Hassan District is noticeable. The Inspector General is requested to devote special attention to the tract in question."

The number of cases of murder are certainly most-- noticeable, and call for attention, not only as regards the work of the Police, but also of the Sessions Courts.

It is hopeless for the Police to attempt to suppress crime of this sort, if the courts of the District do not -- strenuously assist them - instead of going out of their way to find the most trivial flaws in the evidence.

I have the honour to be,

Sir,

Your most Obedient Servant.

J C [illegible]

Inspector General of Police.

RJ

Office of the
Inspector General of Police in Mysore

NO. 5810/mis 759 Dated Bangalore, 10/13 th April 1905

From

F. E. C. Carr Esquire,
Inspector General of Pclice in Mysore.

To

S. Ramaswami Iyer Esquire,
Government Advocate,
Bangalore.

Sir,

I have the honor to forward herewith a Memo of grounds of appeal in Hassan Sessions case No. 7 of 1904-05, known as the Hanumanhalli murder case, for action under section 417 C.P.C..

The Memo is a most comprehensive and exhaustive answer, to the reasons set forth by the Sessions Judge for acquitting all the accused. I concur fully with the District Magistrate and Assistant Superintendent of Police, that there has been a gross miscarriage of justice in the case.

The main points in the case are:-

1. The value of an approver's evidence.
2. Whether the prosecution have established sufficient motive
3. Whether the evidence corroborative of the approver's state -ment is believable, and whether it does not strengthen - and confirm the main facts adduced by the approver.

These points are gone into, most exhaustively in the Memo aforesaid, and I have very little to add.

However I should like to point out that the Judge has imported into the case most extraordinary and irrelevent matter

matter. For example:-

(a) He quotes a statement, or whatever he may call it, of one of the defence lawyers, (which of them he does not state) and bases one of his presumptions thereon.

(b) He in one place refuses to take into consideration the confessions of the 4th and 5th accused, before the Amildar Magistrate of Saklespur; but in another part of his judgment, and in order to refute and break down the evidence of the approver, he quotes these very confessions.

(c) He takes little or no notice of the evidence of witnesses, who state that they met the accused near the scene of occurence on the very date of the occurrence, and of the witness-es who state that they saw the 7th accused with the others (excepting the 6th accused) at the Magge shandy, some few days before the murder.

(d) He sweeps aside as if of little importance the evidence of the petty merchant, and the Goldsmith, who both give clear evidence ofthe buying of the powder and bullets , and of the converting of the latter into slugs.

(e) He asks why most irrelevent evidence regarding the gun has not been imported into the prosecution evidence.

(f) He professes to disbelieve, that there was sufficient evidence to show that the important money transactions which the Prosecution showed had passed between deceased and nearly all the accused, (especially the 6th) can be construed into a presumption of sufficient motive.

(g) Although there is the clearest and most definite evidence on the record, that there was a civil suit between the deceased and the 6th accused for the enormous sum of 55 thousand rupees; that a compromise sought for by the 6th accused had been rejected by the deceased shortly before the murder; that the final hearing of this civil case which was full of the most momentous importance to the 6th accused, was to come off on the 29th - (3 days after the murder), that the deceased had money dealings also with the 1st, 2nd and 3rd accused in which he

appears to have dealt exceedingly hardly with them, the Judge actually goes out of his way to observe " usually debtors are grateful to their creditors" and that therefore it is incredi-table that the deceased should have been murdered by such grate-ful debtors as the accused.

(h) He bases another presumption as to the improbability of the crime having been committed by the accused, on the appro-ver's evidence that there was an interval of 4½ months between the first conception of the murder, and the actual execution of the deed! ! but he ignores the fact that during this period the 6th accused attempted a compromise, and all the other accused no doubt hoped against hope that the deceased would be persuaded to forego or lessen his claims; and that it was only in the event of all other means failing, that the accused persons deter-mined to go to the last extremity of getting rid of the deceased by foul means.

(i) He imports into his reasons for doubting that the 1st accused and the 3rd and the approver could work together, on the astounding ground that they belonged to opposite factions - as they had been complainant and accused in a petty case before the 3rd class Magistrate of Alur, 8 years ago.

(j) Still more astounding is the reasoning of the Judge that it is improbable that the 1st and other accused would have committed the murder, without recovering the full amount of the reward of Rs400/- from the 6th accused. It was the most natural thing in the world for the 6th and 7th accused to pay over only 100/- rupees of the reward to the other accused, with the promise that the full amount would be given, after the actual deed had been committed.

In my opinion the Judge has given most insufficient - grounds for disbelieving the evidence of the approver. He has disregarded most strong circumstantial evidence of eyewitnesses who saw the accused near the scene of crime; and he has virtually ignored the strong corroborative evidence concerning the gun -

and the bullets.

I, in common with all officers who have had experience of Police and Magisterial work in India, strongly deprecate the usual practice of working for confessions on the part of the Police ; but in an extraordinary case of this sort, where a crime has been committed in a sparsely populated and jungly tract of country, where the case has been the outcome of a well-conceived and carefully hidden conspiracy, the conspirators being most careful that there should be no eye witnesses; and where men of standing and influence are implicated, it appears to me that the only means at the disposal of the Police, is to persuade one or other of the murderers to turn approver, and for the Police to work out any corroborative or circumstantial evidence which may confirm and strengthen the story of the approver.

It was no doubt to meet such an exigency as this, where no other evidence is procurable, that the legislature allows the testimony of an accomplice to be taken, even though that testimony may be uncorroborated by outside evidence.

In this case, as I have endeavoured to point out, we have not only the testimony of the accomplice, but also corroborative evidence, and most overwhelming proofs as to motive.

In conclusion I would call your attention to the fact that this Sessions Judge, who tried and acquitted the accused in this case is, I am given to understand, the District Judge before whom the civil suit between the deceased Range Gowda and the 6th accused Guruve Gowda was posted for the 29th of July 1904, viz, 3 days after the murder occurred. This, in my opinion, should have been sufficient reason for this Sessions Judge to have asked for a transfer of the case from his file, and I may mention incidentally that an Additional Sessions Judge happened to be at Hassan conducting the Sessions at that very time, the Sessions Judge himself being away on leave.

I have etc.,

(Signed) F.C. Carr.

Inspector General of Police.

"C O P Y "

Inspector General of Police.

G.R.S. 28]

File No. 274

Serial No. 2

Diary No. of letter replied to 1268

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.
(Courts

, *the* 25/5/ 1905.

Date of issue 25/5/05

Signed by Mr P.G. Melanla

READ.—

Letter No. 6053/653 dated the 28th April 1905 from the Inspr General of Police in Mysore requesting that an appeal may be ordered to be preferred to the Chief Court against the order of acquittal of the accused persons passed by the Sessions Judge of the Mysore Division in Sessions Case No. 7 of 1904-05, (Hanumanthally murder Case)

2. Do. dated the 9th May 05 from the same Officer submitting information as

over

Cl. 12/5/05

Inst. 21/5/05

654 Cl. 21.5.05

SUBJECT

Issued 24/5/05

MGCPB—5,000—21-6-04

to the time taken in obtaining a copy of the judgment & forwarding an authenticated copy of the judgment in the case

Order Nisi: J 3865-6 / C. 274-2 4/25/5/08

made he 4(1) of the Code of Criminal Pro. the Govt Advocate is directed to prefer an appeal to the Chief Court against the order of the Sessions Judge referred to above

2. Though the judgment was delivered on the 18th October 1907, a copy of the same was received by the District Magistrate who is responsible for advising the Govt as to filing an appeal, only on the 7th November 1907. excluding

This interval viz 25 days from the period of limitation, the date for filing the appeal will fall in the 8th March 1908. But as the Chief Court was

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

closed on that day, the appeal may, under Sec 5 of the Limitation Act, be presented on the reopening day in June next

3 ~~The Inspector~~ Considering the importance of the case, the Inspector General of Police is requested to depute the Asst Supdt of Police who prepared the memo of appeal or some other person to instruct the Government Advocate as to the facts & arguments in the case

G.S. 10/5 Secretary

2 The Insp[r] General of Police The Govt Advocate Nilgiris

Copied dft. 23/5/05
Examined. SM 23/5/05